

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-1360-EAQ-E TCEQ ID: RN105506901 CASE NO.: 36448
RESPONDENT NAME: HEISER HOLLOW PARTNERS, LLC

Page 1 of 2

| | | |
|-------------------------------------------------------|-------------------------------------------------------------|-------------------------------------------------------------------------|
| ORDER TYPE: | | |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER | <input type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER | <input type="checkbox"/> SHUTDOWN ORDER | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> EMERGENCY ORDER | |
| CASE TYPE: | | |
| <input type="checkbox"/> AIR | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE |
| <input type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input checked="" type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |

SITE WHERE VIOLATION(S) OCCURRED: 1,600 feet east of the intersection of FM 306 and FM 2673, Comal County

TYPE OF OPERATION: construction site

SMALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired June 1, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Rebecca M. Combs, Litigation Division, MC 175 (512) 239-6939
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Ms. Lauren Smitherman, Water Enforcement Section, MC 169, (512) 239-5223

TCEQ Regional Contact: Mr. Tom Haberle, San Antonio Regional Office, MC R-13, (210) 403-4050

Respondent: Mr. John H. Davenport, Member, Heiser Hollow Partners, LLC, 12790 Merit Drive, Suite 100, Dallas, Texas 75251

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: N/A</p> <p>Date of Investigation Relating to this Case: June 16, 2008</p> <p>Date of NOE Relating to this Case: July 21, 2008</p> <p>Background Facts: The case was referred to the Litigation Division on January 23, 2009. The agreed order was signed on March 26, 2009.</p> <p>Current Compliance Status: No outstanding Technical Requirements.</p> <p>WQ: Failed to obtain approval of a Contributing Zone Plan prior to beginning construction of a regulated activity over the Edwards Aquifer Contributing Zone [TEX. WATER CODE ch. 26 and 30 TEX. ADMIN. CODE § 213.23(a)(1)].</p> | <p>Total Assessed: \$1,500</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid to General Revenue: \$1,500</p> <p>The Respondent paid the administrative penalty in full.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Corrective Actions Taken:</p> <p>The ED recognizes that the Respondent's Edwards Aquifer Contributing Zone Plan was approved by the TCEQ on July 18, 2008.</p> |



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 12, 2008

TCEQ

| | | | |
|--------------|------------------|-------------|--|
| DATES | Assigned | 4-Aug-2008 | |
| | PCW | 22-Jan-2008 | |
| | Screening | 21-Aug-2008 | |
| | EPA Due | | |

RESPONDENT/FACILITY INFORMATION

| | | | |
|-----------------------------|-----------------------------|---------------------------|-------|
| Respondent | Heiser Hollow Partners, LLC | | |
| Reg. Ent. Ref. No. | RN105506901 | | |
| Facility/Site Region | 13-San Antonio | Major/Minor Source | Minor |

CASE INFORMATION

| | | | |
|----------------------------------------|-----------------|------------------------------|--------------------|
| Enf./Case ID No. | 36448 | No. of Violations | 1 |
| Docket No. | 2008-1360-EAQ-E | Order Type | 1660 |
| Media Program(s) | Edwards Aquifer | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Lauren Smitherman |
| | | EC's Team | Enforcement Team 1 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

| | | |
|-------------------------------------------------------------|-------------------|---------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$2,000 |
|-------------------------------------------------------------|-------------------|---------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

| | | | |
|---------------------------|------------------|--------------------------------|-----|
| Compliance History | 0.0% Enhancement | Subtotals 2, 3, & 7 | \$0 |
|---------------------------|------------------|--------------------------------|-----|

| | |
|--------------|----------------------------------------------------|
| Notes | No change due to average performer classification. |
|--------------|----------------------------------------------------|

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------------------|-------------------|-----|

| | |
|--------------|--------------------------------------------------------|
| Notes | The Respondent does not meet the culpability criteria. |
|--------------|--------------------------------------------------------|

| | | |
|------------------------------------------------------|-------------------|-------|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$500 |
|------------------------------------------------------|-------------------|-------|

| | | | |
|-------------------------|-------------------|-------------------|-----|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-------------------|-------------------|-----|

| | |
|-----------------------------------|---------|
| Total EB Amounts | \$18 |
| Approx. Cost of Compliance | \$4,000 |

*Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|---------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$1,500 |
|-----------------------------|-----------------------|---------|

| | | | |
|---------------------------------------------|------|-------------------|-----|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.0% | Adjustment | \$0 |
|---------------------------------------------|------|-------------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

| | |
|--------------|--|
| Notes | |
|--------------|--|

| | |
|-----------------------------|---------|
| Final Penalty Amount | \$1,500 |
|-----------------------------|---------|

STATUTORY LIMIT ADJUSTMENT

| | |
|-------------------------------|---------|
| Final Assessed Penalty | \$1,500 |
|-------------------------------|---------|

DEFERRAL

| | | | |
|------|-----------|-------------------|-----|
| 0.0% | Reduction | Adjustment | \$0 |
|------|-----------|-------------------|-----|

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

| | |
|--------------|----------------------------------------------------|
| Notes | Deferral not offered for non-expedited settlement. |
|--------------|----------------------------------------------------|

| | |
|------------------------|---------|
| PAYABLE PENALTY | \$1,500 |
|------------------------|---------|

Screening Date 21-Aug-2008

Docket No. 2008-1360-EAQ-E

PCW

Respondent Heiser Hollow Partners, LLC

Policy Revision 2 (September 2002)

Case ID No. 36448

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN105506901

Media [Statute] Edwards Aquifer

Enf. Coordinator Lauren Smitherman

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria) | 0 | 0% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (number of counts) | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) | 0 | 0% |
| Please Enter Yes or No | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No change due to average performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

| | | | | | | | | | | | | | | | | | | | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|--|-------------|----------|-------|----------------|----------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|-------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|-------------------------------------------------------------------------|-------------------------------------------------------------------------|-----------|-------------------------------------------------------------------------|-------------------------------------------------------------------------|-------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| Screening Date 21-Aug-2008 | | Docket No. 2008-1360-EAQ-E | | PCW | | | | | | | | | | | | | | | | | |
| Respondent Heiser Hollow Partners, LLC | | <small>Policy Revision 2 (September 2002)</small> | | | | | | | | | | | | | | | | | | | |
| Case ID No. 36448 | | <small>PCW Revision June 12, 2008</small> | | | | | | | | | | | | | | | | | | | |
| Reg. Ent. Reference No. RN105506901 | | | | | | | | | | | | | | | | | | | | | |
| Media [Statute] Edwards Aquifer | | | | | | | | | | | | | | | | | | | | | |
| Enf. Coordinator Lauren Smitherman | | | | | | | | | | | | | | | | | | | | | |
| Violation Number | | <div style="border: 1px solid black; padding: 2px; text-align: center;">1</div> | | | | | | | | | | | | | | | | | | | |
| Rule Cite(s) | | <div style="border: 1px solid black; padding: 2px; text-align: center;">30 Tex. Admin. Code § 213.23(a)(1)</div> | | | | | | | | | | | | | | | | | | | |
| Violation Description | | <div style="border: 1px solid black; padding: 5px;">Failed to obtain approval of an Edwards Aquifer Contributing Zone Plan ("CZP") prior to beginning construction of a regulated activity over the Edwards Aquifer Contributing Zone, as documented during an investigation conducted on June 16, 2008. Specifically, the investigator observed construction of rock walls, grading of the land, clearing of vegetation, and construction equipment on a combined area of 2.10 acres.</div> | | | | | | | | | | | | | | | | | | | |
| Base Penalty | | | | <div style="border: 1px solid black; padding: 2px; text-align: right;">\$10,000</div> | | | | | | | | | | | | | | | | | |
| >> Environmental, Property and Human Health Matrix | | | | | | | | | | | | | | | | | | | | | |
| OR | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> </tr> </table> | | | | | Harm | | | Release | Major | Moderate | Minor | Actual | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | Potential | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | Percent <div style="border: 1px solid black; padding: 2px; text-align: right;">0%</div> |
| | | Harm | | | | | | | | | | | | | | | | | | | |
| | Release | Major | Moderate | Minor | | | | | | | | | | | | | | | | | |
| Actual | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | | | | | | | | | | | | | | | | | | |
| Potential | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | | | | | | | | | | | | | | | | | | |
| >> Programmatic Matrix | | | | | | | | | | | | | | | | | | | | | |
| | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Falsification</td> <td><div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div></td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> </tr> </table> | | | | | Major | Moderate | Minor | Falsification | <div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div> | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | Percent <div style="border: 1px solid black; padding: 2px; text-align: right;">10%</div> | | | | | | | | |
| | Major | Moderate | Minor | | | | | | | | | | | | | | | | | | |
| Falsification | <div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div> | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | | | | | | | | | | | | | | | | | | |
| Matrix Notes | <div style="border: 1px solid black; padding: 5px; text-align: center;">100% of the permit requirement was not met.</div> | | | | | | | | | | | | | | | | | | | | |
| Adjustment | | | | <div style="border: 1px solid black; padding: 2px; text-align: right;">\$9,000</div> | | | | | | | | | | | | | | | | | |
| | | | | <div style="border: 1px solid black; padding: 2px; text-align: right;">\$1,000</div> | | | | | | | | | | | | | | | | | |
| Violation Events | | | | | | | | | | | | | | | | | | | | | |
| Number of Violation Events | | <div style="border: 1px solid black; padding: 2px; text-align: center;">2</div> | <div style="border: 1px solid black; padding: 2px; text-align: center;">32</div> | Number of violation days | | | | | | | | | | | | | | | | | |
| <small>mark only one with an x</small> | daily | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | | | | | | | | | | | | | | | | | | | |
| | weekly | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | | | | | | | | | | | | | | | | | | | |
| | monthly | <div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div> | | | | | | | | | | | | | | | | | | | |
| | quarterly | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | | | | | | | | | | | | | | | | | | | |
| | semiannual | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | | | | | | | | | | | | | | | | | | | |
| | annual | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | | | | | | | | | | | | | | | | | | | |
| | single event | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | | | | | | | | | | | | | | | | | | | |
| Violation Base Penalty | | | | <div style="border: 1px solid black; padding: 2px; text-align: right;">\$2,000</div> | | | | | | | | | | | | | | | | | |
| <div style="border: 1px solid black; padding: 5px; text-align: center;">Two monthly events are recommended based on the investigation date (June 16, 2008) to the date of compliance (July 18, 2008).</div> | | | | | | | | | | | | | | | | | | | | | |
| Good Faith Efforts to Comply | | <div style="border: 1px solid black; padding: 2px; text-align: center;">25.0%</div> | Reduction | <div style="border: 1px solid black; padding: 2px; text-align: right;">\$500</div> | | | | | | | | | | | | | | | | | |
| | | Before NOV | NOV to EDPRP/Settlement Offer | | | | | | | | | | | | | | | | | | |
| Extraordinary | | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | | | | | | | | | | | | | | | | | | |
| Ordinary | | <div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div> | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | | | | | | | | | | | | | | | | | | |
| N/A | | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | | | | | | | | | | | | | | | | | | |
| | | <small>(mark with x)</small> | | | | | | | | | | | | | | | | | | | |
| Notes | | <div style="border: 1px solid black; padding: 5px;">The Respondent came into compliance on July 18, 2008.</div> | | | | | | | | | | | | | | | | | | | |
| Violation Subtotal | | | | <div style="border: 1px solid black; padding: 2px; text-align: right;">\$1,500</div> | | | | | | | | | | | | | | | | | |
| Economic Benefit (EB) for this violation | | Statutory Limit Test | | | | | | | | | | | | | | | | | | | |
| Estimated EB Amount | | <div style="border: 1px solid black; padding: 2px; text-align: right;">\$18</div> | Violation Final Penalty Total | <div style="border: 1px solid black; padding: 2px; text-align: right;">\$1,500</div> | | | | | | | | | | | | | | | | | |
| This violation Final Assessed Penalty (adjusted for limits) | | | | <div style="border: 1px solid black; padding: 2px; text-align: right;">\$1,500</div> | | | | | | | | | | | | | | | | | |

Economic Benefit Worksheet

Respondent: Heiser Hollow Partners, LLC

Case ID No. 36448

Reg. Ent. Reference No. RN105506901

Media Edwards Aquifer

Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost No commas or \$ | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|------------------------------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|------------------------------|---------------|------------|-----|----------------|---------------|-----------|

Delayed Costs

| | | | | | | | |
|--------------------------|---------|-------------|-------------|------|------|-----|------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | \$4,000 | 16-Jun-2008 | 18-Jul-2008 | 0.09 | \$18 | n/a | \$18 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Cost reflects the amount to prepare and submit a CZP. The date required is the investigation date and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$4,000

TOTAL

\$18

Compliance History

Customer/Respondent/Owner-Operator: CN603189663 Heiser Hollow Partners, LLC Classification: AVERAGE Rating: 3.01
Regulated Entity: RN105506901 GUADALUPE RIVER CLUB Classification: AVERAGE BY Site Rating: 3.01
DEFAULT

ID Number(s): EDWARDS AQUIFER REGISTRATION 13-08043002
Location: 1600 FT E OF FM 306 AND FM 2673 INTERSECTION,
COMAL CO, TX
TCEQ Region: REGION 13 - SAN ANTONIO
Date Compliance History Prepared: September 03, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: September 03, 2003 to September 03, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Lauren Smitherman Phone: 512-239-5223

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 07/29/2008 (656865)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING HEISER HOLLOW
PARTNERS, LLC,
RN105506901

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1360-EAQ-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the Heiser Hollow Partners, LLC ("Heiser") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Heiser appear before the Commission and together stipulate that:

1. Heiser owns and operates a construction site located approximately 1,600 feet east of the FM 306 and FM 2673 intersection in Comal County, Texas (the "Site").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges a violation of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Heiser agree that the Commission has jurisdiction to enter this Agreed Order, and that Heiser is subject to the Commission's jurisdiction.
4. Heiser received notice of the violation alleged in Section II ("Allegations") on or about July 26, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Heiser of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of one thousand five hundred dollars (\$1,500.00) is assessed by the Commission in settlement of the violation alleged in Section II ("Allegations"). Heiser has paid one thousand five hundred dollars (\$1,500.00) of the administrative penalty.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Heiser have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Heiser implemented the following corrective measure at the Site in response to this enforcement action: an Edwards Aquifer Contributing Zone Plan was submitted and approved for the Site on July 18, 2008.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Heiser has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

During an investigation conducted on June 16, 2008, a TCEQ San Antonio Regional Office investigator documented that Heiser violated 30 TEX. ADMIN. CODE § 213.23(a)(1) by failing to obtain approval of a Contributing Zone Plan prior to beginning construction of a regulated activity over the Edwards Aquifer Contributing Zone. Specifically, the investigator observed construction of rock walls, grading of the land, clearing of vegetation, and construction equipment on a combined area of 2.10 acres.

III. DENIALS

Heiser generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Heiser pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and Heiser's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Heiser Hollow Partners, Docket No. 2008-1360-EAQ-E" to:

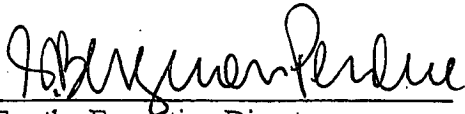
Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon Heiser. Heiser is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Heiser in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Heiser three days after the date on which the Commission mails notice of the Order to Heiser, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

5/27/2009

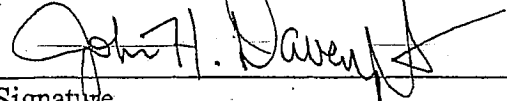
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Heiser's compliance history;
- Greater scrutiny of any permit applications submitted by Heiser;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Heiser;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Heiser; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature

3-26-09

Date

JOHN H. DAVENPORT

Name (Printed or typed)

MEMBER

Title

Authorized representative of Heiser Hollow PARTNERS, LLC